

**RPNM**  
Republican Party of New Mexico

W. Tucker Keene  
Communications Director  
Republican Party of New Mexico  
5150 San Francisco Road, NE  
# A  
Albuquerque, NM 87109

**MUR # 7217**

MUR # \_\_\_\_\_

Complainant

V.

Maryann Hendrickson  
Treasurer  
Soules for US Congress (C00607762)  
6760 Bright View Road  
Las Cruces, NM 88007

Respondent

OFFICE OF GENERAL  
COUNSEL

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FEDERAL ELECTION  
COMMISSION

## COMPLAINT

Complainant files this complaint under 2 U.S.C. §437g(a)(10) against the Soules for U.S. Congress Committee for violations of the Federal Election Campaign Act (the "Act") as described below.

### A. FACTS

Respondent is the principal campaign committee for candidate Merrie Lee Soules and registered as such with the Federal Election Commission (the "Commission") on or about February 1, 2016. Merrie Lee Soules was a candidate for election to the United States Congress from the Second Congressional District of New Mexico in the general election conducted on November 8, 2016.

Based upon information and belief, on or about November 8, 2016, candidate Merrie Lee Soules utilized transportation services provided to her principal campaign committee by a New Mexico corporation which enabled candidate Soules to fly to Roswell, Ruidoso and Alamogordo, New Mexico for campaign "get out the vote" appearances and to participate in media interviews in those three cities.

A review of the mandatory 2016 Post-Election and 2016 Year-End Reports of Receipts and

Disbursements filed with the Commission by the Soules for U.S. Congress committee indicates that neither of these mandated reports contained any disclosure as to the value of the air transportation accepted by the candidate and her committee, either as an "in-kind contribution" or as a "disbursement" to the corporate owner of the aircraft utilized on November 8, 2016. As of this date, Respondent has not reported any of the costs associated with the air travel utilized by the candidate and her committee on November 8, 2016 to the Commission. Consequently, the citizens of the Second Congressional District of New Mexico have been denied the opportunity to make a determination as to the legality of the candidate's acceptance of this air transportation.

Upon information and belief, the aircraft utilized by the candidate and her committee was a 1965 Cessna Model 182H bearing tail number N8338S. The ownership for this aircraft is listed as Aero Newton, Inc. Aero Newton, Inc. is registered with the New Mexico Office of Corporation Counsel at File Number 4705394 and was registered on February 4, 2003 by an entity denominated as M. David Newton 9400 Zia Blvd. LC.

The filing, by entity styled as M. David Newton 9400 Zia Blvd. LC., with the New Mexico Office of Corporation Counsel indicates that Aero Newton, Inc. is a corporation and not a limited liability corporation reporting to the Internal Revenue Service as a partnership.

A photograph taken on November 8, 2016, attached, shows the aircraft with that tail number and several individuals, who are, upon information and belief, candidate Soules, the press spokesperson for the candidate's committee, and the pilot of this aircraft.

Roundtrip air travel on an aircraft such as this and flying a number of legs within the Second Congressional District on Election Day has a defined cost and thus a defined value to the candidate's committee, the candidate and committee staff.

According to information from the St. Charles Flying Service (<http://www.stcharlesflyingervice.com/aircraft-rental-instruction-rates/>), the fair market value of a chartered Cessna is \$300, not including the 8+ hours of airline fuel the candidate's committee, the candidate and committee staff would have been charged for these flights.

## **B. LEGAL ANALYSIS**

Commission Regulations define an "in-kind contribution" at 11 C.F. R. § 100.52(d), 109.20(b), 109.21(b) and 109.379b(1). Commission Regulations define a prohibited corporate "contribution" at 11 C.F.R. § 114.2(a). Commission Regulations define the term "Disbursement" at 11 C.F.R. § 300.2(d).

Acceptance by a federal candidate and that candidate's committee of unreimbursed air travel provided by a corporation is a violation of the Act as a prohibited "in-kind contribution." Acceptance of such unreimbursed air travel and the failure to report, as either a "contribution" or, in the alternative, as a "disbursement", the acceptance of such air travel is a violation of the Act.

A federal candidate committee may not accept a "contribution" from the general treasury funds of a corporation, labor organization or national bank (11 C.F.R. § 114.2(a), (b) and (d)). A "contribution" may

consist of either cash or a cash equivalent or goods and services provided by a contributor (an "in-kind contribution"). Acceptance of an "in-kind contribution" is required to be disclosed to the Commission as a "receipt." Reimbursement of an "in-kind contribution" by a federal candidate's committee must be disclosed to the Commission as a "disbursement."

**C. REQUESTED ACTION**


As has been shown, there is substantial documentary evidence that the Respondent has violated the Federal Election Campaign Act and the willingness of the candidate and the candidate's committee to accept an obvious and prohibited "in-kind contribution" from a corporation, coupled with the abject failure of the Respondent to report the receipt or reimbursement of this "in-kind contribution" to the Federal Election Commission and to the citizens of the Second Congressional District of New Mexico, strongly suggests that these statutory violations of the Act were made in a "knowing and willful" manner. We respectfully request that the Commission investigate these violations. Should the Commission determine that the Respondent has violated the Federal Election Campaign Act, we request that the respondent and the candidate be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,



W. Tucker Keene  
Communications Director  
Republican Party of New Mexico

SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of February, 2017

  
Notary Public

My Commission Expires:

07/06/2019



OFFICIAL SEAL  
Lavonn Benjamin  
NOTARY PUBLIC - STATE OF NEW MEXICO

My Commission Expires: 07/06/2019

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